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SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1947

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# No. 357

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ATLANTIC GREYHOUND CORPORATION
*Petitioner,*

*vs.*

WALTER HUNT, ADMINISTRATOR OF MARY ELLEN HUNT, JOSEPHINE HUNT, BY HER NEXT FRIEND, WALTER HUNT, LEROY HUNT, BY HIS NEXT FRIEND, WALTER HUNT, AND BOBBY WARREN HUNT, BY HIS NEXT FRIEND, WALTER HUNT (CONSOLIDATED FOR TRIAL)

**PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE FOURTH CIRCUIT.**

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ROY L. DEAL,
FRED S. HUTCHINS,
*Counsel for Petitioner.*

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## PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE FOURTH CIRCUIT.

The Atlantic Greyhound Corporation, petitioner, prays that a writ of certiorari issue to review the judgment of the Circuit Court of Appeals for the Fourth Circuit entered in the above causes affirming the judgments of the United States District Court for the Middle District of North Carolina.

### Opinion Below

The opinion of the Circuit Court of Appeals is reported in — F. 2d — (R. 164-169).

## Jurisdiction

The judgment of the court below was entered July 16, 1947 (R. 169). The jurisdiction of this court is invoked under Section 240(a) of the Judicial Code, as amended by the Act of February 13, 1925. Federal jurisdiction was based on diversity of citizenship.

## Questions Presented

Actions in tort were brought in the District Court against the petitioner by three minors for personal injuries and by the administrator of a deceased minor for her death, resulting from the collision in North Carolina of an automobile, driven by their father, in which they were riding and the petitioner's bus.

The questions presented are:

1. Whether the Circuit Court of Appeals misstated and misapplied an important local rule in the law of proximate cause with respect to intervening negligence by holding that the following instructions to the jury:

> "* * * the negligence must be the proximate cause, that is, an efficient cause, which in continuance sequence produces the injury complained of and without which the injury would not have occurred."
>
> "* * * as I stated to you in the outset, if you find that that negligence on the part of Walter Hunt was the sole, proximate cause of the injury to these plaintiffs, then it would be your duty to find a verdict against the plaintiffs and in favor of the defendant."
>
> "* * * but it is your duty to consider any evidence here that shows any negligence on the part of the operation of the Hunt car, any evidence of negligence on the part of the bus driver in order to determine whose negligence really caused the trouble. That is your duty to decide whether the negligence of Walter Hunt alone caused it and if it did, the defendant should not be required to pay for it, * * *",

which omitted all reference to the essential elements of intervening negligence and its "foreseeability", were sufficient, notwithstanding that petitioner had in apt time, the evidence fully warranting it, requested the trial judge to give a special instruction that:

> "The proximate cause of an event must be understood to be that which in natural and continuance sequence, *unbroken by any new and independent cause* produces that event, and without which such event would not have occurred. *The test of which to determine whether the intervening act of an intelligent agent which has become the efficient cause of an injury should be considered a new and independent cause, breaking the sequence of events put in motion by the original negligence of the defendant, is whether the intervening act and resulting injury is one that the author of the primary negligence could have reasonably foreseen and expected.*"
>
> "*The test by which the negligent conduct of one is to be insulated as a matter of law by the independent negligent act of another, is reasonable unforeseeability on the part of the original actor of the subsequent intervening act and resulting injury. The test is whether the intervening act and the resulting injury is one that the author of the primary negligence could have reasonably foreseen and expected. The law only requires reasonable foresight, and when the injury complained of is not reasonably foreseeable, in the exercise of due care, the party whose conduct is under investigation is not answerable therefor.*" (The trial court refused to give those portions of the special instruction in italics.)

2. Whether the Circuit Court of Appeals should not have granted a new trial because of the error of the trial court in instructing the jury that the violation of North Carolina statutes requiring a motor vehicle to have adequate brakes (G. S. 20-124, App. 15), and requiring a motor vehicle making a left turn to pass to the right of the center of the inter-

section (G. S. 20-153(a)) was only evidence of negligence, whereas the North Carolina courts hold such acts to be negligence *per se*.

**Statutes Involved**

The statutes involved are set out in the Appendix, *infra*, pp. 15-18.

**Statement**

About 7 o'clock in the evening of July 31, 1945, in Ronda, North Carolina, there was a collision between the automobile of Walter Hunt, in which his children, respondents and respondent's intestate, were riding, and a bus of the petitioner. The collision occurred in the intersection of State Highway No. 268, the dominant highway, and Traphill Road, the servient highway.

There was compelling evidence that the negligence of the father, Walter Hunt, was the intervening proximate cause of the collision.

Traphill Road descends from the north and dead-ends (toward the south) into No. 268, the latter running approximately east and west. The intersection is part of a slight curve in No. 268, to the right of one going west. There is a highway stop sign on Traphill Road 94 feet from No. 268. Traphill Road is unpaved and is narrow, but flares out at the intersection to a width of 96 feet. The pavement on No. 268 is 20 feet wide.

On the left, as one leaves Traphill Road and enters the intersection, there is a bank 8 feet high. Because of this bank, one would have to be within a few feet of No. 268 before westbound traffic on No. 268 would come within the range of vision.

Walter Hunt, accompanied by his wife and four children, drove his 1934 model Ford automobile, admittedly with faulty brakes (R. 43, 19, App. p. 68, 44) down Traphill Road

toward the intersection. Respondent's witness, the state highway patrolman who investigated the collision, testified as to Hunt's car, "It was a '34 Ford—'34 model Ford—mechanical brakes. The car was in right bad shape, just worn out shape, a car of several years operation"( R. 32, App. p. 57). About two weeks before the collision, Hunt told the witness, Roope, (R. 43, App. p. 68) that his car "didn't have any brakes on it"; at the trial Hunt admitted he had not had it repaired (R. 69, App. p. 44). Hunt admitted (R. 11, 69, App. pp. 35 and 94) that he came out of the Traphill Road *on the left.* The uncontradicted evidence was that he came out on the extreme left close to the eight-foot bank (R. 36, App. pp. 76, 96).

The only evidence that Hunt stopped in obedience to the stop sign and the North Carolina statute was his own, which was vague as to where he stopped and contradictory (R. 11, 12, 18, 19, 20, 69, App. pp. 36, 37, 43, 44, 45, 94). All the eye-witnesses testified he failed to stop, and entered the intersection at from 30 to 35 miles per hour (R. 40, 44, 51, 57, 61, 71, App. pp. 65, 69, 76, 82, 86, 96). Hunt testified that he had entered the intersection, had completed his turn, and had straightened up on the south side of No. 268 where the bus struck his automobile on Hunt's right and the bus' left side of No. 268. All the evidence except Hunt's was that his automobile had not completed the turn to the left but was practically straight across No. 268, the greater part of the Ford being on the south side of No. 268, and that the bus turned to the left and its front struck the left side of the Ford near its door and a little south of the middle line of No. 268 (R. 47, 48, 50, 51, 58, App. pp. 72, 73, 75, 76, 83). Marks made by the Ford's wheels contradicted Hunt and corroborated the other witnesses (R. 32, 33, App. pp. 57 and 58) as to the Ford's position across No. 268 when struck.

There was convincing evidence that the bus was entering the intersection or was just about to enter it when Hunt drove his car into the intersection immediately in front of the bus (R. 17, 45, 52, App. pp. 42, 70, 77, 84).

The bus driver turned to the left in an effort to avoid a collision (R. 59, App. pp. 75, 83). A bus passenger testified:

> "When I saw the car coming off of the highway, it was coming down grade, and coming right practically towards the bus, and the bus driver he cut across looked like to try to avoid hitting the car, and it crossed about straight across in front of him and he hit the car."

The bus stopped within the intersection, the front of it being just by the middle line of Traphill Road extended into the intersection. It stopped over the point of collision, the bus being 34 feet long and 26 feet of it having passed the point of collision. (Plaintiff's witness, the highway patrolman, R. 24, 25, App. pp. 49 and 50). The skid marks made by the bus were only 6 to 8 feet long (R. 25, App. p. 50).

It thus appears that there was ample evidence that Hunt was guilty of at least three negligent acts which intervened and proximately caused the collision as follows:

(1) Failing to stop at intersection;

(2) Driving a car with inadequate brakes down grade into a main highway;

(3) Driving out of the side road on his extreme left into the face of approaching traffic, close to and from behind a high bank, where by obeying the law he would have driven to his right of the center of the intersection at least 48 feet to the west, where he could see and be seen, thereby violating the provisions of General Statutes of North Carolina, Section 20-153(a) (App. 16).

Petitioner in each of its answers plead- such negligence of Walter Hunt as the proximate cause of the collision (Par. II, III and IV of answers, R. 6-9).

Petitioner in apt time requested a special instruction (R. 117-121, App. pp. 142-146) relating to the negligence of Hunt as the intervening efficient cause, not reasonably foreseeable by the petitioner's driver, which to use the North Carolina term "insulated" or rendered inoperative any negligence by petitioner's driver, as follows:

> "(1) The defendant contends that its bus was on a regular schedule; that the driver thereof was acquainted with the intersecting highway at the point of the accident and knew that a "stop" sign had been erected at the entrance of Traphill road to Highway No. 268 and that knowing this, that he had a right to assume that a person entering the main highway from Traphill Road would obey the law and bring his automobile to a full stop before entering the said intersection; that the driver of the bus had the right to assume that Walter Hunt would bring his automobile to a full stop near enough to the main travelled highway and on the right side of Traphill road where his automobile could be seen at a reasonable distance from his approach to the intersection; the defendant further contends that Walter Hunt was approaching the said intersection from behind a high bank, and on the left side of Traphill road, at a point, where he could not be seen on account of the bank until he had emerged therefrom; that after the bus driver had entered the intersection and was traversing the same, that Walter Hunt suddenly and abruptly ran out into the intersection from behind this bank, at a time, at a place, in a manner and at a speed so as to make it impossible to avoid a collision; thet the negligence of Walter Hunt was gross and palpable; that the bus driver could not have reasonably foreseen such unlawful conduct, and that if the driver of the bus was guilty of any negligence, which the defendant strenuously and absolutely denies, that the gross and palpable negligence of Walter Hunt insulated any negligence on his part, and was an intervening

act on Walter Hunt's part which was reasonably unforeseeable, and the cause without which the collision and injury would not have occurred.

And the court charges you, Gentlemen of the Jury, that the doctrine of insulating the negligence of one by the subsequent intervention of an act of negligence of another really belongs to the definition of proximate cause. While there may be more than one proximate cause that which is new and entirely independent breaks the sequence of events and insulates the original or primary negligence. For an illustration, I may be negligent on a particular subject matter. Another person, moving independently, comes in, and either negligently or maliciously so acts as to make my negligence injurious to a third person. If so, the person so intervening acts as a non-conductor, and insulates my negligence so that I cannot be sued for the mischief which a person so intervening directly produces. He is the one who is liable to the person injured.

The proximate cause of an event must be understood to be that which in natural and continuance sequence, unbroken by any new and independent cause produces that event, and without which such event would not have occurred. The test of which to determine whether the intervening act of an intelligent agent which has become the efficient cause of an injury shall be considered a new and independent cause, breaking the sequence of events put in motion by the original negligence of the defendant, is whether the intervening act and resulting injury is one that the author of the primary negligence could have reasonably foreseen and expected.

The test by which the negligent conduct of one is to be insulated as a matter of law by the independent negligent act of another, is reasonable unforeseeability on the part of the original actor of the subsequent intervening act and resulting injury. The test is whether the intervening act and the resulting injury is one that the author of the primary negligence could have reasonably foreseen and expected. The law only requires

reasonable foresight, and when the injury complained of is not reasonably foreseeable, in the exercise of due care, the party whose conduct is under investigation is not answerable therefor. Foreseeable injury is a requisite of proximate cause and proximate cause is a requisite for actionable negligence, and actionable negligence is a requisite for recovery in an action for personal injury negligently inflicted.

Measured by this standard, the defendant contends that the driver of its bus could not have reasonably foreseen that Walter Hunt would enter the main travelled highway without coming to a full stop where the law so required him to come to a full stop, or come to a full stop close enough to the main travelled highway so as to be able to see approaching traffic before entering same, and that Walter Hunt violated the law and the rules of the road in failing to come to a full stop and in approaching from the left side of the Traphill road and in coming into the said main highway at a high and unreasonable rate of speed under the circumstances; that it was unforeseeable on its driver's part and that he had the right to assume that Walter Hunt, or anyone else, approaching from this side road where there is a 'stop' sign would obey the law and come to a stop at a point and at a place where he could see approaching traffic, and that when he failed to do this, but entered without stopping at a high rate of speed when the vehicles were so close together that it was impossible to avoid a collision, that such conduct on the part of Walter Hunt, the defendant contends, was gross and palpable negligence which the bus driver did not and was not required to foresee, and that if there were any negligence on his part, that it was insulated by the gross and palpable negligence of Walter Hunt, and that such negligence on the part of Walter Hunt was the proximate cause of the collision and injury, and, the court instructs you, Gentlemen of the Jury, that if you find the facts in this respect to be as contended for by the defendant, that the plaintiffs would

> not be entitled to recover in this action, and it would be your duty to answer the first issues 'No.' Butner *v.* Spease, 217 N. C., page 82."

The trial judge refused each paragraph of the instruction and so marked each of them (R. 121, App. 146).

At the conclusion of the charge and before the jury retired, counsel for the petitioner (R. 104-108, App. 129 to 133) again called the court's attention to the petitioner's contentions as to intervening efficient cause, and repeated the request for instructions thereon (R. 108, App. 133).

By so doing petitioner fully complied with the provisions of Rule 51, District Court Rules: *Sprinkle* v. *Davis*, 104 F. (2) 487, 490.

**Specification of Errors to Be Urged**

(1) The court below erred in holding that the general definition of proximate cause given the jury by the trial judge, in substance as follows:

> "* * * the negligence must be the proximate cause, that is, an efficient cause, which in continuance sequence produces the injury complained of and without which the injury would not have occurred",

which would be applicable in any case based on negligence, is also sufficient in a case like this one in which the evidence strongly indicates *intervening efficient* cause and in which the defendant specifically relies thereon as a defense and requests special instructions covering that special phase of the law of proximate cause (Special instruction No. 11, App. 142-146).

(2) The court below erred in failing to grant a new trial because of the error of the trial court in instructing the jury that the violation of North Carolina statutes requiring a motor vehicle to have adequate brakes (G. S. 20-124,

App. 15) and requiring a motor vehicle making a left turn to pass to the right of the center of the intersection (G. S. 20-153(a)) was only evidence of negligence, whereas the North Carolina courts hold such acts to be negligence *per se*.

**Reasons for Granting the Writ**

I

In this case the Circuit Court of Appeals has decided an important question of local law probably in conflict with applicable decisions of the Supreme Court of North Carolina, and with the great weight of authority in other States. That is, the Circuit Court of Appeals erred in holding that in a tort action based on negligence, the trial court may give the jury only a general instruction as to proximate cause and may omit any reference to the law of intervening efficient cause, although special instructions as to this special phase of the law of proximate cause *is* requested in apt time.

> "Where a timely request is made for special instructions which correctly propound the law and which are warranted by the pleadings and the evidence in the case, it is the duty of the court to give them unless covered by other instructions given, or by the general charge, and a non-compliance with this duty will necessitate a reversal where it cannot be said that appellant was not prejudiced, * * *". (5 C. J. S., Appeal and Error, page 1155, Section 1774(a)).

*Calhoun* v. *Highway Commission*, 208 N. C. 424;
*Greer* v. *Hayes*, 221 N. C. 141;
*Shelley* v. *New York, N. H. & H. R. Co.*, 93 F. (2) 479;
*Gold* v. *United States*, 102 F. (2) 352;
*Sprinkle* v. *Davis*, 104 F. (2) 487;
*Smith* v. *Carrington*, 8 U. S. (4 Cranch) 62, 71;

*Thorwegian* v. *King*, 111 U. S. 549;
*Pennsylvania Ry. Co.* v. *F. Jacoby & Co.*, 242 U. S. 89;
*Weiler* v. *U. S.*, 323 U. S. 606,

and cases from 34 States cited in footnote to above quotation from C. J. S.

The special instruction requested (No. 11, R. 117) is a correct statement of the law of North Carolina as to intervening efficient cause. The special instruction (except for the contentions as to the facts) is taken practically verbatim from *Butner* v. *Spease*, 217 N. C. 82.

It is also supported by the following North Carolina cases:

*Harton* v. *Telephone Co.*, 146 N. C. 430;
*Lineberry* v. *N. C. Ry. Co.*, 187 N. C. 786;
*Craver* v. *Franklin Cotton Mills*, 196 N. C. 330;
*Hinnant* v. *Railroad*, 202 N. C. 489;
*Baker* v. *Railroad*, 205 N. C. 329;
*Reeves* v. *Staley*, 220 N. C. 573.

In *Reeves* v. *Staley*, *supra*, in which the facts were, as a matter of legal principle, almost identical with the facts in this case the Supreme Court of North Carolina dismissed the action, holding that as a matter of law the negligence of the driver of the car in which plaintiff's intestate was a passenger was the intervening proximate cause of her death. In that case, the court stated the following principles of intervening proximate cause:

> "Foreseeability is the test of whether the intervening act is such a new, independent and efficient cause as to insulate the original negligent act. That is to say, if the original wrongdoer could reasonably foresee the intervening act and resultant injury, that the sequence of events is not broken by a new and independent cause, and in such event the original wrongdoer remains liable."

* * * * * * *

"However, a motorist is not under a duty of anticipating negligence on the part of others, but in the absence of anything which gives or should give notice to the contrary, a person is entitled to assume, and to act on the assumption that others will exercise ordinary care for their own safety. * * *".

In other jurisdictions failure to give such a special instruction as to intervening proximate cause has been held reversible error:

*Texas & N. O. Ry. Co.* v. *Robinson,* (Tex.) 57 S. W. (2) 938;

*Flemming's Fraternal Undertaking Co.* v. *Quarrels,* (Tex.) 116 S. W. (2) 1160;

*John Webber et. ux.* v. *Park Auto Transportation Co.,* 138 Wash. 325, 244 Pac. 718;

*Montgomery Ward & Co.* v. *Snuggins,* 103 F. (2) 458.

In *Texas & N. O. Ry. Co.* v. *Robinson,* supra, the court said:

"Appellant also complains of the court's definition of proximate cause. The trial court defined it as 'a direct and immediate cause, without which the injuries and damages to the cattle complained of would not have happened.' Appellant objected to same because it did not include the added condition that such cause must be 'unbroken by any efficient intervening cause,' citing Robertson & Mueller *v.* Holden (Tex. Com. App.) 1 S. W. (2) 570, and Hulen *v.* Ives (Tex. Civ. App.) 281 S. W. 350. Such a definition is approved in the cases cited. While the definition given by the court would ordinarily be sufficient, if there be evidence of an independent or intervening agency between the negligence charged and the injuries sustained, which the jury might have found caused such injuries, the court should further qualify or extend such definition so as to cover it."

One can read the opinion of the Circuit Court of Appeals and from the opinion alone readily see the error. The opinion conceded the North Carolina rule as to intervening proximate cause and stated that it is "a specific application of the theory of proximate cause," but fell into the obvious error of holding that a general definition of proximate cause without more covered the specific rule as to intervening proximate cause. It is a matter of public concern that the error be corrected.

## II

The Court instructed the jury (R. 108, App. 133), over the objection of the defendant, that a violation of the North Carolina statutes with respect to brakes, with respect to the duty of one approaching the highway at an intersection to keep to his right, and to operate an automobile with due care and have his vehicle under such control so as to avoid injury to the people on the highway is "evidence of negligence." When the defendant objected to this statement on the ground that such violations were negligence per se, the court stated that "they have changed that rule."

That the court erred in this respect is clearly established by the following North Carolina decisions:

*Holland* v. *Strader,* 216 N. S. 436;
*Smart* v. *Rogers,* 217 N. C. 560;
*Williams* v. *Woodward,* 218 N. C. 305; and
*Conley* v. *Pierce-Young-Angle Co.,* 224 N. C. 211.

## Conclusion

It is, therefore, respectfully submitted that this petition for a writ of certiorari should be granted.

Roy L. Deal,
Fred S. Hutchins,
*Winston-Salem, N. C.,*
*Attorneys for Petitioner.*

## APPENDIX

The following Sections are part of Chapter 20, Motor Vehicles, the General Statutes of North Carolina:

Section 20-124. Brakes.

"(a) Every motor vehicle when operated upon a highway shall be equipped with brakes adequate to control the movement of and to stop such vehicle or vehicles, and such brakes shall be maintained in good working order and shall conform to regulations provided in this section.

"(c) On a dry, hard, approximately level stretch of highway free from loose material, the service (foot) brake shall be capable of stopping the motor vehicle at a speed of twenty miles per hour within a distance of twenty-five feet with four wheel brakes. The hand brake shall be capable of stopping the vehicle under like conditions of this section within a distance of not more than seventy-five feet.

"(d) Motor trucks and tractor-trucks with semi-trailers attached shall be capable of stopping on a dry, hard, approximately level highway free from loose material at a speed of twenty miles per hour within the following distances: thirty feet with both hand and service brake applied simultaneously and fifty feet when either is applied separately, except that vehicles maintained and operated permanently for the transportation of property and which were registered in this or any other state or district prior to August, 1929, shall be capable of stopping on a dry, hard, approximately level highway free from loose material at a speed of twenty miles per hour within a distance of fifty feet with both hand and service brake applied simultaneously, and within a distance of seventy-five feet when either applied separately."

Section 20-140. Reckless Driving.

"Any person who drives any vehicle upon a highway carelessly and heedlessly in wilful or wanton disregard

of the rights or safety of others, or without due caution and circumspection and at a speed and in a manner so as to endanger or be likely to endanger any person or property, shall be guilty of reckless driving, and upon conviction shall be punished as provided in 20-180."

Section 20-146. Drive on right side of highway.

"Upon all highways of sufficient width, except upon one-way streets, the driver of a vehicle shall drive the same upon the right half of the highway, and shall drive a slow-moving vehicle as closely as possible to the right hand edge or curb of such highway, unless it is impracticable to travel on such side of the highway and except when overtaking and passing another vehicle subject to the limitations applicable in overtaking and passing, set forth in 20-149 and 20-150."

Section 20-153. Turning at intersection.

"(a) Except as otherwise provided in this section, the driver of a vehicle intending to turn to the right at an intersection shall approach such intersection in the lane for traffic nearest to the right hand side of the highway, and in turning shall keep as closely as practicable to the right hand curb or edge of the highway, and when intending to turn to the left shall approach such intersection in the lane for the traffic to the right of and nearest to the center of the highway, and in turning shall pass beyond the center of the intersection, passing as closely as practicable to the right thereof before turning such vehicle to the left.

"(b) For the purpose of this section, the center of the intersection shall mean the meeting point of the medial lines of the highways intersecting one another."

Section 20-154. Signals on starting, stopping or turning.

"(a) The driver of any vehicle upon a highway before starting, stopping or turning from a direct line shall first see that such movement can be made in safety, and if any pedestrian may be affected by such move-

ment shall give a clearly audible signal by sounding the horn, and whenever the operation of any other vehicle may be affected by such movement, shall give a signal as required in this section, plainly visible to the driver of such other vehicle, of the intention to make such movement.

"(b) The signal herein required shall be given by means of the hand and arm in the manner herein specified, or by any approved mechanical or electrical signal device, except that when a vehicle is so constructed or loaded as to prevent the hand and arm signal from being visible, both to the front and rear, the signal shall be given by a device of a type which has been approved by the department.

Whenever the signal is given the driver shall indicate his intention to start, stop, or turn by extending the hand and arm from and beyond the left side of the vehicle as hereinafter set forth.

Left turn—hand and arm horizontal, forefinger pointing.

Right turn—hand and arm pointed upward.

Stop—hand and arm pointed downward.

All signals to be given from left side of vehicle during last fifty feet traveled."

Section 20-155. Right-of-way.

"(a) When two vehicles approach or enter an intersection and/or junction at approximately the same time, the driver of the vehicle on the left shall yield the right-of-way to the vehicle on the right except as otherwise provided in 20-156.

"(b) The driver of a vehicle approaching, but not having entered an intersection and/or junction, shall yield the right-of-way to a vehicle within such intersection and turning therein to the left across the line of travel of such first mentioned vehicle: Provided, the driver of the vehicle turning left has given a plainly visible signal of intention to turn as required in 20-154."

Section 20-158. Vehicles must stop at certain through highways.

"(a) The state highway and public works commission, with reference to state highways, and local authorities, with reference to highways under their jurisdiction, are hereby authorized to designate main traveled or through highways by erecting at the entrance thereto from intersecting highways signs notifying drivers of vehicles to come to full stop before entering or crossing such designated highway, and whenever any such signs have been so erected it shall be unlawful for the driver of any vehicle to fail to stop in obedience thereto. No failure so to stop, however, shall be considered contributory negligence per se in any action at law for injury to person or property; but the facts relating to such failure to stop may be considered with the other facts in the case in determining whether the plaintiff in such action was guilty of contributory negligence."

Section 20-164. Driving on mountain highways.

"The driver of a motor vehicle traversing defiles, canyons or mountain highways shall hold such motor vehicle under control and as near the right hand side of the highway as reasonably possible, and upon approaching any curve where the view is obstructed within a distance of two hundred feet along the highway, shall give audible warning with a horn or other warning device."

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